

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

: CRIMINAL NO. 1:CR-98-00136-07

v.

JEROME KENT

:

MEMORANDUM AND ORDER

Before the court is Defendant Jerome Kent's petition filed pursuant to 28 U.S.C. § 2255 in which he raises two issues. He claims that he did not receive proper notice of the amended judgment of sentence issued on August 21, 2001 and that this court should not have permitted him to waive his appearance at his resentencing.

The various appeals and motions filed pursuant to § 2255 by Defendant have been through a tortured process. The Government's response to the instant motion contains the procedural history that brings us to the instant petition and will not be repeated herein.

This court amended Defendant's sentence on August 21, 2001. However, Defendant claims he never received proper notice that he was resentenced. This position is incredulous as on September 5, 2001, Defendant filed a notice of appeal of that resentencing to the Third Circuit Court of Appeals. The appeal was specifically taken from the judgment of sentence dated August 21, 2001. This appeal was denied on April 6, 2004. Defendant had one year from that date to file a motion pursuant to 28 U.S.C. § 2255, raising both issues contained in the petition presently before the court. Furthermore, the issue of his lack of personal appearance at resentencing has already been decided against Defendant.

In his reply, Defendant makes the following argument, "Kent is not claiming that he did not receive proper notice of the amended sentence, but rather, Kent is claiming that he did not receive proper notice that he was resentenced." This explanation is nonsense and unintelligible.

IT IS THEREFORE ORDERED THAT the March 24, 2008 petition filed pursuant to 28 U.S.C. § 2255 is dismissed as untimely. The court declines to issue a certificate of probable cause.

s/Sylvia H. Rambo

SYLVIA H. RAMBO
United States District Judge

Dated: June 20, 2008.